

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DISTRICT**

EDEN ROGERS and  
BRANDY WELCH,

Case No.: 6:19-cv-01567-JD

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;

XAVIER BECERRA, in his official capacity  
as Secretary of the UNITED STATES  
DEPARTMENT OF HEALTH AND HUMAN  
SERVICES;

ADMINISTRATION FOR CHILDREN AND  
FAMILIES;

JANUARY CONTRERAS, in her official  
capacity as the Senior Official Performing  
the Duties of the  
Assistant Secretary of the  
ADMINISTRATION  
FOR CHILDREN AND FAMILIES;

JEFF HILD, in his official capacity as  
Principal Deputy Assistant Secretary of the  
ADMINISTRATION FOR CHILDREN AND  
FAMILIES;

HENRY MCMASTER, in his official capacity  
as Governor of the STATE OF SOUTH  
CAROLINA; and

MICHAEL LEACH, in his official capacity as  
State Director of the SOUTH CAROLINA  
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR VOLUNTARY  
DISMISSAL OF CLAIMS AGAINST  
FEDERAL DEFENDANTS  
PURSUANT TO FED. R. CIV. P.  
41(a)(2)**

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Pursuant to Fed R. Civ. P. 41(a)(2), Plaintiffs Eden Rogers and Brandy Welch respectfully submit this Motion for Voluntary Dismissal of Claims against certain

Defendants only. Plaintiffs move to voluntarily dismiss Defendants United States Department of Health and Human Services (“HHS”); Xavier Becerra, in his official capacity as Secretary of HHS; Administration for Children and Families (“ACF”); January Contreras, in her official capacity as the Senior Official Performing the Duties of the Assistant Secretary of ACF; and Jeff Hild, in his official capacity as Principal Deputy Assistant Secretary of ACF (together, the “Federal Defendants”). The Federal Defendants consent to this motion. The State Defendants do not consent.

Plaintiffs brought this action against the Federal Defendants based on the Federal Defendants granting South Carolina an exception to the religious nondiscrimination requirements of 45 CFR § 75.300(c) (the “HHS Waiver”). (Compl. ¶¶ 68, 114-26, 141-56.) The Federal Defendants have since withdrawn the HHS Waiver (ECF No. 204) and, therefore, Plaintiffs no longer wish to pursue claims against them.

Plaintiffs have separate claims against Governor McMaster and Michael Leach (together, the “State Defendants”) that are not impacted by the dismissal of the Federal Defendants. (Compl. ¶¶ 97-113, 127-40.) In particular, Plaintiffs claim that the State Defendants have violated the Establishment Clause and Plaintiffs’ Equal Protection rights by authorizing state-contracted child-placement agencies (“CPAs”) to discriminate against prospective foster parents on the basis of sexual orientation and religion, including by issuing Executive Order 2018-12 and licensing CPAs that discriminate on these bases. The State Defendants have no cross-claims against the Federal Defendants. Therefore, the State Defendants will suffer no prejudice by the dismissal of the Federal Defendants from this action.

Thus, Plaintiffs respectfully request that the Court dismiss all claims against the Federal Defendants only with Plaintiffs and Federal Defendants to each bear their own fees and costs. A supporting memorandum is not required as a full explanation of the motion is set forth herein. Local Civ. Rule 7.04 (D.S.C.).

/s Nekki Shutt

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